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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,063	02/06/2002	Nigel A. Browne	500024-A-01-US (Browne)	1202

7590	06/03/2005

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EXAMINER
AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
2642	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 December 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-12_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-12_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 12/3/2004. Claims 1 - 12 are now pending in the present application. **This action is made final.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 7 – 9, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,751,310 (Crossley).

As to claims 1, 11, and 12, Crossley teaches a system and method for prioritizing call campaigns in automatic call distributors (ACD)/call centers wherein sets of call campaign scripts (A, B, C) and system scripts, either reading on the claimed processing scripts, are prioritized according to/assigned reflective pacing ratio weightings. (Abstract, Col. 2, lines 35 – 65, Col. 3, line 63 – Col. 6, line 41, Col. 8, line 17 – Col. 10, line 59) The scripts are used to instruct the system on how to perform telephony operations, i.e., processing communications in the ACD. (Col. 4, line 50 – Col. 6, line

41) Note as well that it is known in the art to consider an ACD as a whole, as a switch because it is the ACD that switches incoming and outgoing calls between agents and customers/called parties.

Crossley teaches selecting one of the scripts (A, B, and C) for application to a certain calls/communications depending on which campaign the call/communication falls under, as well as using the assigned weightings to provide a desired percentage of usage over given number of calls/communications. (Col. 1, line 13 – Col. 2, line 9, Col. 10, lines 6 – 59)

Finally, Crossley teaches the use of a database 140 to store the above-mentioned weightings and priorities as well as the use of a success processor 130 to select, apply, and thereby adjust the pacing ratios and scripts. (Figs. 2A and 3, Col. 8, lines 17 – 43)

As to claims 2 and 7, Crossley teaches one embodiment of the system wherein each campaign script (A, B, and C) is assigned a weighting amount of 10%, read as the claimed set of equal weightings. Furthermore, Crossley teaches that the percentage specifies a desired percentage of usage of the campaign script. (Col. 10, lines 28 – 48).

As to claim 8, see the rejection of claims 2 and 7 and note that the percentage weightings used by Crossley et al. also reads on the claimed frequency value. If a campaign script is to be used to handle 75% of all calls, it will be used 75% more frequently than for example, a script that will only be used to handle 1% of all calls.

As to claim 9, the scripts discussed above are inherently lines of code. As already mentioned, scripts are used to instruct the system on how to process

calls/communications. Any instructions wherein the things to be instructed are

databases, processors, and servers, etc. must be at some time, implemented as code

or else these system elements will not be able to interpret the instructions. (Figs. 2A –

3, Col. 4, line 50 – Col. 6, line 41)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the

obligation under 37 CFR 1.56 to point out the inventor and invention dates of each

claim that was not commonly owned at the time a later invention was made in order

for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35

U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US

6,751,310 (Crossley) in view of US 5,740,233 (Cave et al.)

Crossley has been discussed above. What Crossley does not teach is using a round-robin selection process when selecting scripts.

Crossley simply does not discuss how calls are assigned to the various campaign scripts, but notes that somehow, call records are processed for assigning to a campaign. (Col. 3, line 59 – Col. 4, line 2, Col. 6, lines 33 – 41 of Crossley) This is because the invention of Crossley is concerned with the priority/weighting aspect of the call scripts. Many known methods of assigning calls to agents, whether inbound or outbound or known in the art, round-robin being only one a plurality of choices, such as first in first out, longest idle, etc. as taught by Cave et al. (Col.2, lines 8 – 18 of Cave et al.) It would have been obvious for one of ordinary skill in the art at the time the invention was made to have employed a round-robin selection method because it is old and well known and merely a known choice.

4.   Claims 4 – 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,751,310 (Crossley) in view of US 5,740,238 (Flockhart et al.)

As to claim 4, Crossley has been discussed above. What Crossley does not teach is using integer values to implement assigned weightings.

However, it is well known in the telephony arts that different forms of weightings can be used as taught by Flockhart et al., wherein integer values representing seconds are used to effect weighting. (Col. 7, lines 1 – 39 of Flockhart et al.) It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used integer values instead of percentage values inasmuch as either type of value has

the same end effect. Therefore, choosing one over the other is merely a design choice

or preference. Furthermore, an integer value could very well be used to represent a

percentage value. Such variations will depend on how one wants to design a system.

For example, storing an integer value, i.e., "1" may simply be easier than storing a

percentage value, i.e., "0.75" because less memory is needed.

As to claim 5, see the rejection of claims 2, 4, and 7.

As to claim 6, see the rejection of claims 2, 4, and 7 and note that Crossley also

teaches using different weightings as opposed to equal weightings for all scripts. (Col.

10, lines 6 – 17 and lines 49 – 59 of Crossley)

As to claim 10, see the rejection of claims 1, 11, and 12. See also Col. 1, line 20

– Col. 2, line 49 of Flockhart et al. and note that Flockhart et al. teaches it is well known

in the ACD arts to utilize a plurality of ACDs and a plurality of call campaign splits or

groups as well as the known motivation to efficiently distribute calls to the best-

suited/most appropriate group or ACD. Therefore, while Crossley addresses a single

ACD scenario, using the above-discussed system, and method in a multiple or

distributed ACD system/switch would have been obvious to one of ordinary skill in the

art. Note that any switch or ACD has multiple processing elements. (Figs. 1 – 3 of

Crossley and Figs. 1 – 3 of Flockhart et al.) Furthermore, Flockhart et al. teach the

desire to efficiently route calls in a load balanced manner, read as the claimed desired

distribution of communication processing operations.

Response to Arguments

5.   Applicant's arguments, see P. 2 – 3 of the Response, filed 12/3/2004, with

respect to double patenting have been fully considered and are persuasive. The double

patenting rejection of claims 1 – 12 has been withdrawn.

6.   Applicant's arguments filed 12/3/2004 as to the remaining 102 and 103 rejections

have been fully considered but they are not persuasive.

Applicant argues that a campaign cannot be read as a processing script and that

this precludes examiner from making a rejection under Crossley.

First, in the previous office action, examiner explicitly stated that BOTH

campaigns AND system scripts taught by Crossley read on the claimed processing

script.

As to Crossley's system scripts, such are employed in either an inbound or

outbound campaign wherein such scripts dictate how or when to process a call for

example. See Col. 6, lines 33 – 45 of Crossley wherein it is explicitly stated that

telephony application client 72 (which includes campaign call scripts) is used to process

an inbound call or to initiate an outbound call. Therefore, at the least, such campaign

call scripts are integral to and a part of each campaign. As discussed above and in the

previous office action, Col. 1, line 13 – Col. 2, line 9, Col. 10, lines 6 – 59 of Crossley

teaches that weightings can be applied to specific campaigns for example that affect the

number of calls that a campaign is to answer or initiate. Therefore, such weightings are directly or indirectly applied to/affect the campaign call scripts of telephony application client 72.

Applicant makes no rebuttal or argument that the above-discussed system or campaign scripts of Crossley do not read on the claimed invention, but focus on the assertion that campaigns do not read on the claimed invention. As to this argument, simply because Crossley does not call a campaign a "script" or may use the term "script" to describe another aspect of the invention does not preclude examiner for interpreting what is taught in the reference to be analogous to what applicant has claimed. Therefore, although applicant goes on at length about the difference between what Crossley deems a script and a campaign, examiner maintains again, that a campaign as taught by Crossley still reads on the present invention.

Moreover, although applicant asserts that Crossley's campaigns are not selected for application to a given communication, examiner points out that Crossley teaches having multiple campaigns such as A, B, and C. And as noted above, each campaign involves the dialing or receiving of a plurality of single communications. Because multiple campaigns are contemplated, for example, one call record associated with a communication that is to be initiated may be retrieved for campaign A, while another call record associated with another single communication that is to be initiated may be retrieved for campaign B. Therefore, the weightings and pacing ratios (analogous to weightings) applied to each campaign affect single communications as when a call is to

be made from campaign A as opposed to being made from campaign C. (Col. 10, lines 24 – 48 of Crossley)

As to applicant's arguments regarding the pacing ratios, as already discussed, each campaign can read on the claimed processing script and of course, pacing ratios can be applied to individual campaigns, i.e., A of a set of campaigns, i.e., A, B, C.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 571-272-7480. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ahmad F. Matar can be reached on 571-272-7488. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Hector A. Agdeppa
Examiner
Art Unit 2642

H.A.A.
May 26, 2005

AHMAD F. MATAR
SUPERVISORY PATENT EXAMINER
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